

(Rollcall Vote No. 164 Ex.)

YEAS—51

Alexander	Fischer	Paul
Barrasso	Flake	Perdue
Blunt	Gardner	Portman
Boozman	Graham	Risch
Burr	Grassley	Roberts
Capito	Hatch	Rounds
Cassidy	Heller	Rubio
Cochran	Hoeven	Sasse
Collins	Inhofe	Scott
Corker	Isakson	Shelby
Cornyn	Johnson	Strange
Cotton	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	McConnell	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NAYS—47

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Booker	Heinrich	Reed
Brown	Heitkamp	Sanders
Cantwell	Hirono	Schatz
Cardin	Kaine	Schumer
Carper	King	Shaheen
Casey	Klobuchar	Tester
Coons	Leahy	Udall
Cortez Masto	Manchin	Van Hollen
Donnelly	Markey	Warner
Duckworth	McCaskey	Warren
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Murphy	

NOT VOTING—2

McCain Stabenow

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. ENZI. Madam President, I ask unanimous consent that the Senate resume consideration of the Bernhardt nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of David Bernhardt, of Virginia, to be Deputy Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Madam President, I want to discuss this nomination.

I am here to add my voice to those of my colleagues who oppose the nomination of David Bernhardt to be Deputy Secretary of the Interior. There are a host of reasons—from his history of censoring scientists to his denial of climate change—but I am going to limit my remarks to his allegiance to the oil industry and, specifically, his disregard for the importance of a moratorium on any drilling in the eastern Gulf of Mexico.

During his confirmation process, he gave some very troubling responses to questions about the moratorium from

the ranking member, Senator CANTWELL. She asked: “Do you support the current moratorium in relation to offshore drilling in the Eastern Gulf of Mexico?”

He responded:

I am aware that, in response to the President's recent Executive Order on the Outer Continental Shelf, Secretary Zinke issued a Secretarial Order 3350 directing the Bureau of Ocean Energy Management to review and develop a new five-year plan. I support the President's and the Secretary's actions to examine new leasing opportunities within the OCS in order to advance the Administration's energy agenda.

Then Senator CANTWELL asked him: “Do you support extending this moratorium?”

He responded: “I support the President's and the Secretary's actions aimed at increasing offshore production while balancing conservation objectives.”

First of all, when it comes to the eastern gulf, there is no good way to increase offshore production while balancing environmental concerns. The gulf—the eastern gulf is still recovering from the horrific 2010 *Deepwater Horizon* explosion, which fouled the gulf all the way east into most of the Panhandle of Florida.

Secondly, as I have explained time and again, it makes no sense to drill in an area that is critically important to the U.S. military and is the largest testing and training area for the U.S. military in the world, where we are testing our most sophisticated weapons systems and where we are sending our fighter pilots who need the open space to train. That is why they have the F-22 training at Tyndall Air Force Base. That is why they have training for pilots on the F-35 at Eglin Air Force Base. That is also why the Chief of Staff of the Air Force wrote in a letter just recently, “The moratorium is essential for developing and sustaining the Air Force's future combat capabilities.”

I ask unanimous consent to have the two letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE UNDER SECRETARY
OF DEFENSE,

Washington, DC, April 26, 2017.

Hon. MATT GAETZ,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GAETZ: Thank you for your letter dated March 24, 2017, regarding maintaining the moratorium on oil and gas activities in the Gulf of Mexico beyond 2022. Since military readiness falls under my purview, I have been asked to respond to your letter on behalf of the Secretary of Defense. The Department of Defense (DoD) cannot overstate the vital importance of maintaining this moratorium.

National security and energy security are inextricably linked and the DoD fully supports the development of our nation's domestic energy resources in a manner that is compatible with military testing, training, and operations. As mentioned in your letter, the complex of eastern Gulf of Mexico operating areas and warning areas provides crit-

ical opportunities for advanced weapons testing and joint training exercises. The moratorium on oil and gas “leasing, pre-leasing, and other related activities” ensures that these vital military readiness activities may be conducted without interference and is critical to their continuation. Emerging technologies such as hypersonics, autonomous systems, and advanced sub-surface systems will require enlarged testing and training footprints, and increased DoD reliance on the Gulf of Mexico Energy Security Act's moratorium beyond 2022. The moratorium is essential for developing and sustaining our nation's future combat capabilities.

Since signing the 1983 “Memorandum of Agreement Between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf,” the two departments have worked cooperatively to ensure offshore resource development is compatible with military readiness activities. During recent discussions between the DoD and the Department of the Interior's Bureau of Ocean Energy Management, a question arose concerning whether Congress intended the moratorium to prohibit even geological and geophysical survey activities in the eastern Gulf. We would welcome clarification from Congress concerning this matter.

On behalf of the Secretary, I appreciate your interest in sustaining our testing and training activities in the eastern Gulf of Mexico.

Sincerely,

A.M. KURTA,

Performing the Duties of the Under Secretary of Defense for Personnel and Readiness.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE CHIEF OF STAFF,
Washington, DC, June 27, 2017.

Hon. BILL NELSON,
United States Senate,
Washington, DC.

DEAR SENATOR NELSON: I write this letter in whole-hearted support of a proposal seeking to extend the moratorium on leasing, preleasing, or any other related activity in any area east of the Military Mission Line in the Gulf of Mexico. I understand this provision is being considered for inclusion in the National Defense Authorization Act for Fiscal Year 2018.

The Air Force fully supports the development of our nation's domestic energy resources in a manner that is compatible with the military testing, training, and operations. The complex of eastern Gulf of Mexico operating areas and warning areas provides critical opportunities for advanced weapons testing and joint training exercises. The moratorium on oil and gas leasing, preleasing, and other related activities ensures that these vital military readiness activities may be conducted without interference and is critical to their continuation. Of course, we are always willing to work with the appropriate agencies to see if there are ways to explore for energy without hampering air operations.

The moratorium is essential for developing and sustaining the Air Force's future combat capabilities. Although the Gulf of Mexico Energy Security Act's moratorium does not expire until 2022, the Air Force needs the certainty of the proposed extension to guarantee long-term capabilities for future tests. Emerging technologies such as hypersonics, 5th generation fighters, and advanced sub-surface systems will require enlarged testing and training footprints, and increased Air Force reliance on the moratorium far beyond 2022.

Please don't hesitate to contact me if you have any questions. I look forward to continuing our work with you to ensure America's Air Force remains the very best.

Sincerely,

DAVID L. GOLDFEIN,
General, USAF, Chief of Staff.

Mr. NELSON. The letters—one from the Office of the Secretary of Defense and the other from General Goldfein, the Chief of Staff of the Air Force—state they are needing to put a major investment of telemetry into the eastern gulf range for all of these sophisticated weapons systems, and they don't want this investment of the infrastructure with the moratorium ending in the year 2022. They want to extend the moratorium for another 5 years, to 2027. That is a reasonable request by the Department of Defense and the Department of the Air Force.

For example, a test can start way down in the South, off of Key West, and a cruise missile could go all the way, 300 miles, because of the size of this test range, and then it could have a land impact on Eglin Air Force Base. That is part of our testing regime.

One could ask, Why couldn't the cruise missile weave around oil rig activities? Well, look at the new miniature cruise missiles that are out there. It is not one, but a swarm, which takes up a big footprint that we are testing. This is just one example of a weapons system that needs a lot of open space. This is a national asset. We don't want to give it up. That is why the top brass in the Pentagon is asking that we extend this moratorium so that those expensive investments in telemetry can be made.

We should not put someone in charge at the Department of the Interior if he has an open objection to what is obviously needed for national security and if he has demonstrated a history of siding just with special interests. It would be a bad decision when it comes to the national security of this country.

I am going to oppose the nomination, but that is just one reason, one item, on an ever-growing list of concerns that this Senator has with the Department of the Interior these days.

On June 29, Secretary Zinke announced that the Department was seeking public comment on a new 5-year plan for offshore oil and gas leasing. In case anyone has forgotten, the current 5-year plan was just finalized 6 months ago and is supposed to run through 2022. Why would the Department spend more taxpayer money to go through the whole process all over again? The only reason this Senator can see is that the oil industry wants more acreage. They are going after the eastern Gulf of Mexico, despite the fact that the Department of Defense is asking for exactly the opposite.

By the way, they ought to take from the very productive sections of the Gulf of Mexico off of Louisiana. There are acres and acres under lease, but of all those acres under lease, how many are actually drilled and/or in production? It is a small percentage of the

acreage under lease that is actually drilled. So why don't we take advantage of the existing leases, particularly in the central gulf, which is where the oil is? That is where all the sediments over millions of years came down the Mississippi River, settled in what is today the gulf, into the Earth's crust, compacted it, and made it into oil. That is where the oil is.

Now, remember, also out there in the eastern gulf, this is the area that is off limits. This is the Eglin Gulf Test and Training Range. The Air Force wants to extend that moratorium from 2022 by 5 years—out to 2027—in order to protect it for all of these reasons we have been discussing. It is all of that open space, and we ought not give it up.

I will give you another example of the short memories over at the Department of the Interior.

After the 2010 BP oilspill, it became clear that the relationship between regulators and the oil industry was a problem so the Minerals Management Service was divided into two separate agencies in the Department of the Interior—the Bureau of Ocean Energy Management, which regulates lease sales, and the Bureau of Safety and Environmental Enforcement, which is supposed to ensure that safety standards are followed. Less than a decade later, people seem to have forgotten all of that, and they want to put the two back together again. It is another example of what is going on. Not only that, but the administration is trying to roll back the safety rules, like the well control rule that was finalized in November of last year. This long-overdue rule seeks to prevent what went so tragically wrong on the *Deepwater Horizon* rig from ever happening again.

Every day, it seems like the administration is coming up with a new way to put the gulf at risk and Florida's coastline and tourism-driven economy at risk. It is now putting at risk the national security of the country by messing up the largest testing and training range for the U.S. military and the world. It is utilized by all branches of service. As a matter of fact, when they stopped the Atlantic fleet of the Navy from doing all of its training off of Puerto Rico on the Island of Vieques, all of that training came to the gulf. The Navy squadrons come down for 2 weeks at a time to the Naval Air Station Key West, with the airport actually being on Boca Chica Key, and when they lift off on the runway, within 2 minutes, those F/A-18s are over restricted airspace so they do not have to spend a lot of time and fuel in getting to their training area.

I have heard from business owners, and I have heard from residents across the entire State of Florida. They do not want drilling in the eastern gulf. They have seen what can happen when the inevitable spill happens. We lose an entire season of tourism, and all of that revenue goes away, along with that loss.

Why do they know that?

The BP oilspill was off of Louisiana, but the winds started carrying the oil slicks to the east. It got as far east as Pensacola Beach, and the white, sugary sands of Pensacola were covered in black oil. That was the photograph that went around the world. The winds continued to push it, and tar mats came over and got onto the beach at Destin. We were desperately trying to keep the oil from going into the Choctawhatchee Bay at Destin like it had already gone into the Pensacola Bay at Pensacola. The winds kept pushing it to the east, and the tarballs ended up all over the tourism beaches of Panama City. Then the winds did us a favor—they reversed, and they started taking it back to the west.

So there was oil on some of the beaches, but what happened for an entire year of the tourist season? The tourists did not come to the gulf beaches, not only in Northwest Florida but all down the peninsula, all the way down to Marco Island, and they lost an entire tourist season. That is why people are so upset about any messing around.

This Senator brings this to us as I have spoken of what has happened and have stood up for over the last four decades in order to fight to prevent those kinds of spills from happening again off the coast of the State of Florida.

Yet now we have, right here, an issue in front of us, something that could threaten the Department of Defense's mission for being ready to protect this Nation. In that case, my recommendation to the Senate is not to vote for this nomination for Deputy Secretary of the Interior because of his history and because of how he responded to Senator CANTWELL in the committee.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. ERNST). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. What is the pending business?

The PRESIDING OFFICER. The Bernhardt nomination is pending.

Ms. CANTWELL. I thank the Chair.

Madam President, I rise today to speak about the Bernhardt nomination to be Deputy Secretary of the Interior.

The Deputy Secretary plays an important role in forming and carrying out the administration's policy on a broad range of issues. These issues include our Nation's public lands, our national parks, our national wildlife refuges, our water resources, mineral and energy development on public lands and Federal waters, carrying out our trust responsibilities to our Tribal nations, and working with our territories and Freely Associated States.

The Deputy Secretary also performs very important functions as it relates

to the Secretary or in the Secretary's absence. In virtually all matters, the Deputy Secretary has the authority of the Secretary. That is why I look at this position with such an important critique, because we know in past positions there have been conflicts, and we know we have important policies to discuss, and we need to make sure we have no conflicts of interest.

I have made no secret that I have concerns about this nomination. Mr. Bernhardt is no stranger to this body and he is no stranger to the Department of the Interior. He held a number of senior political positions in the Department during the Bush administration beginning in 2006.

After leaving the Department in 2009, he returned to a successful private practice. For 8 years, he has represented a wide range of clients, including oil and gas companies, mining companies, and water supply interests in California, just to name a few. If he is confirmed, he will oversee the same companies at the Department of the Interior; that is, he will be making decisions on the same things that he lobbied for at the agency, and now he will be on the other side of the table and be able, after a short period of time, to make decisions in those areas.

So, as I said at his confirmation hearing—I'm not suggesting that just working for the private sector disqualifies someone, but when you have a wide range of issues that you have worked on in the private sector and now you are going to be on the other side of the table, it brings up concerns.

The President of the United States traveled the country when he was campaigning and said he wanted to drain the swamp from special interests, and he has repeated that many times over the last few years. But with Mr. Bernhardt's nomination, I am afraid he is not draining the swamp, he is actually helping to fill it.

The nominee's private sector experience as a registered lobbyist for companies whose main public policy focuses are in the Department of Interior creates an appearance of a conflict of interest. Also, the nominee wants to lead the Department that he sued four times.

It is true that Mr. Bernhardt has considerable experience. We saw another nominee come to this same post in a past administration on the same basis. People thought he had a lot of experience in a lot of these cases, but he obviously didn't follow the law and ended up going to jail because of his overreaching within the agency and organization.

So these are very important public policy issues, public lands issues—interests that the American people need to make sure are aboveboard and no conflicts of interest.

Mr. Bernhardt served in the highest levels of the Department of the Interior at a time when the inspector general called it "a culture of ethical failure." I know that at the hearing he

told us he tried to help change that failure of culture within the agency. The Inspector General also testified that "ethics failures on the part of senior department officials—taking the form of appearances of impropriety, favoritism and bias—have been routinely dismissed with a promise 'not to do it again.'"

While Mr. Bernhardt has given testimony about the fact that he tried to help change and get away from that culture, I still have concerns that his private sector client base poses a significant problem. The nominee's extensive client base in the area, which falls under the jurisdiction of the Department of the Interior, creates at least an inherent appearance of conflict. He and his clients have lobbied extensively on such matters as the Cadiz pipeline in California, opening up the Arctic National Wildlife Refuge to oil exploration, and weakening the Endangered Species Act. He has advocated in favor of expanding offshore drilling and lifting the moratorium in the Gulf after the Deepwater Horizon disaster. He also represented Westlands Water District, the Nation's largest irrigation district, as a registered lobbyist. His law firm represented Westlands in four different lawsuits against the Department of the Interior.

In November 2016, he joined the Trump transition team, and Mr. Bernhardt deregistered as a lobbyist for Westlands yet continued to work for them in some capacity.

As the ranking member of the Energy and Natural Resources Committee, I raised concerns about these issues with the nominee during his confirmation hearing. He has submitted required financial disclosure and ethics forms, but there are specific questions we want to make sure are addressed.

He has declined to comment on recusing himself beyond just the 1-year minimum that is required by the ethics rules. I know Mr. Bernhardt says he will comply with whatever the organization and agency requires, but we don't have the time, given the long list of conflicts of interest and given that past case representation, to constantly know every issue and every meeting and every oversight to make sure that undue influence is not being pressured at the Department of Interior.

The President of the United States, who nominated Mr. Bernhardt, told the Times just yesterday in a conversation about the Attorney General: "If he was going to recuse himself, he should have told me before he took the job and I would have picked someone else." Well, I hope that is not the issue here. I hope the agency isn't running fast toward somebody who just won't recuse themselves in hopes that they will get someone who will do the bidding of these interests and not take into consideration the complexity, the legal structure, and the challenges that dealing with these issues takes.

In fact, as late as March of this year, Mr. Bernhardt's firm was submitting

invoices to Westlands for lobbying charges with itemized expenses. Documents show he was engaged in regular contact with congressional offices and working on legislation and efforts to inform administration policy at the same time he was serving on the Trump transition team.

Even the appearance that Mr. Bernhardt was still lobbying on behalf of clients that do business with the Department of the Interior at the same time he wants to help lead it validates some of the concerns we have been expressing.

I remain concerned about his record on behalf of these corporations at the expense of the environment and his tenure at the Department of the Interior and many other challenges. The Department's responsibilities and jurisdictions are just too vast. They are too important to the American people to just green-light someone who I believe will be very challenged in doing this job. So I urge my colleagues to oppose this nomination.

Just today, a complaint was filed with a U.S. Attorney about this nominee's alleged lobbying activities based on new records available pursuant to California public records law. I want answers from the nominee. We are going to continue to ask questions.

In the meantime, I ask my colleagues to oppose this nomination. Make sure we get the answers we need before the nomination of David Bernhardt can continue.

I thank the Presiding Officer.

I yield the floor.

Madam President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MR. GARDNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. GARDNER. Madam President, it is my honor to come to the Senate floor today to talk in support of a fellow Coloradan's nomination to be the Deputy Secretary of the Department of the Interior—David Bernhardt. I am very excited about his nomination, strongly support his nomination, and believe that my fellow Coloradan will do an absolutely incredible job for Colorado and for the rest of this country at the Department of the Interior.

I had the great honor just a month or more ago of welcoming David to the committee and welcoming his beautiful family there with him that day. I reminded his oldest son Will about the connection that my family and our oldest child will always have with Will, because when my wife Jaime was working at the Department of the Interior, our oldest daughter Alyson spent some time at daycare with David Bernhardt's son Will, as well. It was the same daycare and the same work Jaime and David did at the Department of the Interior, working together

all those years. But there is more than that. There are more connections I will share, between David Bernhardt and me, and one of the many reasons why I support him.

I have known him personally and professionally for nearly two decades. We both grew up in rural Colorado. I am from the Eastern Plains of Colorado, and Mr. Bernhardt is from the Western Slope. I am from the flatlands, and he is from the mountains. We share a lot of common interests in rural development and saving small towns.

We both began our public service 1 year apart, interning in the Colorado State Legislature for a member of the Colorado State Legislature named Russell George, who would go on, eventually, to become the Colorado speaker of the house.

I will never forget when I began. It was in the second term of then-State Representative Russell George. I worked for him on Tuesdays and Thursdays in an internship through Colorado State University. He said: You should reach out and meet last year's intern because I think he could help you figure out the ropes around here and what you should know about the internship. He gave me the phone number for David Bernhardt. So I followed in the footsteps of David Bernhardt at the capitol, and I am excited to see the work that he continues to do.

As I mentioned, Mr. Bernhardt worked with my wife Jaime at the Department of the Interior, and, at one point, their offices were just around the corner from one another. His personal background and public and private sector professional experiences prove that he is a strong voice for the West and extremely well-qualified for the nomination to be Deputy Secretary. He has extensive insight on western water policy, natural resource policy, and Indian affairs, just to name a few. Those who have worked with Mr. Bernhardt commend him for his integrity and wealth of knowledge on the issues under the jurisdiction of the Department of the Interior.

In 2008, after the Department reached the largest Indian water rights settlement in the Nation's history, Secretary Kempthorne personally acknowledged Mr. Bernhardt's work as then-Solicitor and stated: "His effective coordination—both within Interior as well as with the local, tribal, state and congressional leaders—was essential to the success we celebrate today."

The country will indeed benefit from having Mr. Bernhardt serve as Deputy Secretary, a position that is the second ranking official within the Department and has statutory responsibilities as the chief operating officer.

Along with Mr. Bernhardt's professional career, I believe it is important to fully understand his background and the foundation of his interest in public lands, which further qualifies him for this very important role.

Mr. Bernhardt is originally from the outskirts of the small town of Rifle,

CO, located on Colorado's Western Slope. If you have driven through the Eisenhower Tunnel, the Veterans Memorial Tunnels, or if you go to Grand Junction, CO, you will have been right by and through Rifle, CO.

Few places more fully embody the spirit and mission of the agency he has been nominated to lead as Deputy Secretary. Growing up in rural Colorado instilled in David strong western values and interests, and, to this day, Mr. Bernhardt enjoys hunting, recreation, the outdoors, and fishing.

Rifle is located in Garfield County, an area where about 60 percent of the lands are Federal public lands. Think about the work he is about to take on upon confirmation: 60 percent of his home county is public lands.

Rifle was founded as a ranching community along the Colorado River, and it retains that heritage today, along with tremendous opportunities for world-class outdoor recreation, including fishing, hiking, skiing, rafting, and rock climbing. It also sits at the very edge of the Piceance Basin, an area in Colorado which has vast amounts of natural gas.

David grew up in the oil shale boom and bust and has said that the boom-and-bust cycle in Western Colorado has made him more sensitive to the potential benefits and the potential impacts—both environmental and social—of resources development.

In the 1980s, his hometown of Rifle was hit hard by the State's oil shale crash, and he personally experienced some of the hard times the Nation's rural communities often face. Much like the Department of the Interior itself, Rifle is a community that is a product of its public lands and the western heritage around it. It is centrally located, just a few miles away from the iconic Grand Mesa, the world's largest flat top mountain. The flat top's wilderness and the Roan Plateau represent a home base among these public lands, with virtually unmatched access to world-class outdoor experiences, which is why Mr. Bernhardt has such a passion for these issues.

His background and outlook on public lands and water issues assisted him in his prior service at the Department of the Interior, including in the Solicitor's role. Mr. Bernhardt's confirmation as Solicitor was confirmed by voice vote by the U.S. Senate in 2006. By voice vote, he was approved the last time he served at the Department of the Interior.

There have been other nominees—I think this has been a subject of debate on his nomination—considered by the Energy Committee and by this body who practiced private law from the time between their public service appointments at the Department of the Interior and the time they would come back to the administration. Mr. Bernhardt has taken the same steps these nominees did in order for his nomination to move forward today.

I think it is important to point out the Hayes-Schneider standard that was established for the Department of the Interior.

David Hayes, nominated for Deputy Secretary in the Obama administration, was confirmed by the Senate. He had previously served in the Clinton administration, and then he served in the Obama administration. In between that time, he had a private law practice.

Janice Schneider, nominated for Assistant Secretary under President Obama, served in the Clinton administration but in between served in a private law practice. What we see is another nominee who is a dedicated public servant, has gained experience in the private sector, and is willing to come back to public service to give back to our great country.

Mr. Bernhardt's integrity and ability are two of his strongest qualities for his nomination. Public service requires certain sacrifices. I certainly appreciate Mr. Bernhardt's and his family's acceptance of the nomination that will be considered by this body today.

I hope the Senate process has not become a broken process, which disincentivizes qualified people—like Mr. Bernhardt, who is held in high professional regard—from serving and from returning to public service. That is why I hope his nomination today receives strong bipartisan support.

As the Senate takes up the vote on this nomination, I urge my colleagues to hold this nominee to the same practice, the same process to which we hold all nominees who are under consideration before the U.S. Senate.

There are a number of individuals and organizations that support David Bernhardt. The Southern Ute Indian Tribe in Colorado has written a letter of support for his nomination; the Colorado Water Congress, a very important organization made up of environmentalists and water users and municipalities, supports David Bernhardt's nomination; the Colorado River District supports David Bernhardt's nomination.

Why are these important? Because these are people who have worked with him throughout his career, from the time he was an intern for Russell George in the State legislature to the time that he worked with Scott McInnis, to the time he worked at a law firm, to the time he worked at the Department of the Interior, all the way up until today.

The National Congress of American Indians supports David Bernhardt as Deputy Secretary of the Interior; Ducks Unlimited applauds the nomination of David Bernhardt as Deputy Secretary of the Interior; the Boone and Crockett Club supports David Bernhardt's nomination to be Deputy Secretary of the Interior. The list goes on and on.

Here is a letter from a wide variety of organizations: the International

Snowmobile Manufacturers Association, the Recreational Vehicle Industry, environmental organizations that have done great work in conservation, the National Shooting Sports Foundation. These are groups, organizations—not partisan efforts, but organizations that rely on Democrats and Republicans.

The Indian Nation supports David Bernhardt's nomination. These are Republicans, Democrats, and Independents across the country who believe David Bernhardt would do an incredible job at the Department of the Interior.

Here is a letter of support for David Bernhardt from the chief of the Penobscot Nation. The National Cattlemen's Beef Association supports the nomination of David Bernhardt. The list goes on and on.

To my colleagues today, from those who know him best, I ask support for David Bernhardt, Deputy Secretary of the Department of the Interior, and stress the importance of a strong bipartisan vote today to show support for our western States that have so much need at the Department of the Interior. The work needs to be done so that we can start once again getting to the work of the people.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of David Bernhardt, of Virginia, to be Deputy Secretary of the Interior.

Mitch McConnell, Roger F. Wicker, John Thune, Tim Scott, John Hoeven, Pat Roberts, Orrin G. Hatch, Tom Cotton, John Barrasso, Thom Tillis, Michael B. Enzi, John Boozman, James M. Inhofe, John Cornyn, James Lankford, Mike Rounds, Cory Gardner.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David Bernhardt, of Virginia, to be Deputy Secretary of the Interior, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORAN), and the Senator from Nebraska (Mr. SASSE).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

The PRESIDING OFFICER (Mr. PERDUE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 39, as follows:

[Rollcall Vote No. 165 Ex.]

YEAS—56

Alexander	Fischer	Murkowski
Barrasso	Flake	Paul
Bennet	Gardner	Perdue
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Capito	Heinrich	Rounds
Cassidy	Heitkamp	Rubio
Cochran	Heller	Schatz
Collins	Hoeven	Scott
Corker	Inhofe	Shelby
Cornyn	Isakson	Strange
Cotton	Johnson	Sullivan
Crapo	Kennedy	Thune
Cruz	King	Tillis
Daines	Lankford	Toomey
Donnelly	Lee	Wicker
Enzi	Manchin	Young
Ernst	McConnell	

NAYS—39

Baldwin	Franken	Nelson
Blumenthal	Gillibrand	Peters
Booker	Harris	Reed
Brown	Hassan	Sanders
Cantwell	Hirono	Schumer
Cardin	Kaine	Shaheen
Carper	Klobuchar	Tester
Casey	Markey	Udall
Cooms	McCaskill	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden

NOT VOTING—5

Leahy	Moran	Stabenow
McCain	Sasse	

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 39.

The motion is agreed to.

The Senator from Utah.

Mr. HATCH. Mr. President, is it appropriate to make a speech at this time?

The PRESIDING OFFICER. It is.

Mr. HATCH. Thank you, Mr. President.

President Ronald Reagan used to say that people are policy. Attacking a new President's policies, therefore, often includes undermining his or her ability to appoint men and women to lead his or her administration.

The Constitution gives to the President the power to appoint executive branch officials. The Senate has the power of advice and consent as a check on that appointment power.

In the early months of the Obama administration, Senate Democrats were clear about how we should carry out our role in the appointment process. Less than 2 weeks after President Obama took office, the Judiciary Committee chairman said he wished that the Senate could have put the new Justice Department leadership in place even more quickly. Just 3 months into President Obama's first term, the chairman argued that, "at the beginning of a presidential term, it makes sense to have the President's nominees in place earlier, rather than engage in needless delay."

Well, actions speak much louder than words. With a Republican in the White House, Senate Democrats have turned our role of advice and consent into the most aggressive obstruction campaign in history.

This chart is an illustration.

Democrats complained about obstruction when, during the first 6

months of the Obama administration, the Senate confirmed 69 percent of his nominations. Today marks 6 months since President Trump took the oath of office, and the Senate has been able to confirm only 23 percent of his nominations.

I ask my Democratic colleagues: If 69 percent is too low, what do you call a confirmation pace that is two-thirds lower?

Democrats do not have the votes to defeat nominees outright. That is why the centerpiece of their obstruction campaign is a strategy to make confirming President Trump's nominees as difficult and time-consuming as possible.

Here is how they do it. The Senate is designed for deliberation as well as for action. As a result, the Senate must end debate on a nomination before it can confirm that nomination. Doing so informally is fast. Doing it formally is slow.

In the past, the majority and minority informally agreed on the necessity or length of any debate on a nomination, as well as when a confirmation vote would occur. The first step in the Democrats' obstruction campaign, therefore, is to refuse any cooperation on scheduling debates and votes on nominations. The only option is to use the formal process of ending debate by invoking cloture under Senate rule XXII. A motion to end debate is filed, but the vote on that motion cannot occur for 2 calendar days. If cloture is invoked, there can then be up to 30 hours of debate before a confirmation vote can occur.

The Democrats' obstruction playbook calls for stretching this process out as long as possible. While informal cooperation can take a couple of hours, the formal cloture process can take up to several days.

The late Senator Daniel Patrick Moynihan once said that you are entitled to your opinion, but not to your own set of facts. I would state, then, to let the confirmation facts do the talking.

President Trump and his three predecessors were each elected with the Senate controlled by his own political party. This is another illustration right here. At this point in the Clinton and George W. Bush administrations, the Senate had taken no cloture votes—nothing, none whatsoever—as you can see, on nominations. We took just four nomination cloture votes at this point during the Obama administration. So far in the Trump administration, the Senate has taken 33 cloture votes on nominations. Think about that. If that isn't obstruction, I don't know what is. It is not even close.

There is one very important difference between cloture votes taken in the beginning of the Clinton, Bush, or Obama administrations and those taken this year. In November 2013, Democrats effectively abolished nomination filibusters by lowering the vote

necessary to end debate from a super-majority of 60 to a simple majority. It now takes no more votes to end debate than it does to confirm a nomination. In other words, the Senate did not take cloture votes during previous administrations, even though doing so could have prevented confirmation.

Today, Democrats are forcing the Senate to take dozens of cloture votes even though doing so cannot prevent confirmation. At least half of these useless cloture votes taken so far would have passed even under the higher 60-vote threshold.

Earlier this week, 88 Senators, including 41 Democrats, voted to end debate on President Trump's nominee to be Deputy Secretary of Defense. We have seen tallies of 67, 81, 89, and even 92 votes for ending debate. Meanwhile, these needless delays are creating critical gaps in the executive branch.

A clear example is the nomination of Makan Delrahim, a former Senate staffer whom everybody on both sides knows, is a wonderful guy, and who everybody knows is honest. But this clear example is the nomination of Delrahim to head the Antitrust Division at the Department of Justice. Antitrust enforcement is a critical element of national economic policy. It protects consumers and businesses alike, and, without filling these important posts, uncertainty in the market reigns. This is a particular problem at a time of common and massive mergers and acquisitions. Yet Mr. Delrahim, like dozens of others, has been caught in the maelstrom of delays. Mr. Delrahim was appointed out of the Judiciary Committee on a 19-to-1 vote. Everybody there knows how good he is, how decent he is, how honorable he is, and how bipartisan he has been. He is supremely qualified and enjoyed broad support throughout the Senate as a whole. Yet his nomination, like so many others, languishes on the floor because of Democratic obstruction. Indeed, it has taken longer to get Mr. Delrahim confirmed than any Antitrust Division leader since the Carter administration. Keep in mind that this is a former staffer of ours who served both Democrats and Republicans.

Regarding the delay of Mr. Delrahim's confirmation, I ask unanimous consent to have two news articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From www.wsj.com, July 12, 2017]

SENATE FIGHT OVER TRUMP'S NOMINEES HEATS UP

(By Brent Kendall and Natalie Andrews)

WASHINGTON—A congressional battle over President Donald Trump's nominations for a range of influential positions is escalating and becoming more acrimonious, creating additional uncertainty over when some notable government vacancies might be filled.

Mr. Trump has been slower than recent presidents to roll out nominees. But for an array of people the president has selected, Senate Democrats are using procedural tactics to slow the confirmation process to a

crawl—at least in part to object to the lack of open hearings on health-care legislation, Democratic leaders say.

More than 30 nominees are sitting on the sidelines while they await a final Senate confirmation vote. Those include several picks for the Justice and Treasury departments, as well as new commissioners for a federal energy regulator that has been unable to conduct official business because of its vacancies.

If the current pattern holds, many of these people may not be confirmed for their jobs before the Senate takes a break in mid-August. Senate Minority Leader Chuck Schumer (D., N.Y.) in most circumstances has been invoking Senate procedures to require up to 30 hours of debate per nominee, an amount of Senate floor time that means lawmakers can't confirm more than a handful of nominees each week.

The minority party often waives a requirement for lengthy debate, but Democrats are generally declining to do so. In response to GOP complaints, they cite what they call Republican obstructionism under President Barack Obama, including Republicans' refusal to hold a hearing or vote on Mr. Obama's Supreme Court nominee, Merrick Garland.

In the current environment, even non-controversial nominees can take up several days of Senate time. For example, the Senate spent much of the first part of the week considering the nomination of David Nye to be a federal judge in Idaho. Mr. Nye was originally nominated by Mr. Obama and Mr. Trump renominated him after taking office.

Senators took a procedural vote Monday on Mr. Nye, but he wasn't confirmed until Wednesday afternoon, on a 100-0 vote.

Raw feelings on both sides of the aisle erupted this week. Republicans accused Democrats of unprecedented obstruction, saying it would take the Senate more than 11 years at the current pace before Mr. Trump could fully staff a government.

White House legislative affairs director Marc Short, in a press briefing Monday, accused Mr. Schumer of being an irresponsible champion of the "resist" movement. Senate Majority Leader Mitch McConnell (R., Ky.) cited the issue as a top reason for his decision to push back the Senate's planned August recess by two weeks.

On the Senate floor Wednesday, Mr. McConnell said Democrats were "bound and determined to impede the president from making appointments, and they're willing to go to increasingly absurd lengths to further that goal."

Democrats dismiss such characterizations given what they see as unprecedented Republican tactics toward Mr. Obama's nominees, especially Judge Garland. In February 2016, Republican Senate leaders said they wouldn't consider a Supreme Court nominee until after the election.

Democrats also note that Mr. Trump has yet to name people for hundreds of vacancies and say there have been paperwork problems with a number of people he has chosen.

"Our Republican friends, when they're worried about the slow pace of nominations, ought to look in the mirror," Mr. Schumer said on the Senate floor on Tuesday. The GOP complaints about the pace of confirmations, he added, "goes to show how desperate our Republican leadership is to shift the blame and attention away from their health-care bill."

Mr. Schumer has said Democrats will generally insist on lengthy Senate debate time for nominees until Republicans start using traditional Senate procedures for advancing their health legislation, including committee hearings and bill markups.

Mr. McConnell has said Republicans have held numerous hearings on ACA issues in the

past and it isn't necessary to do so for the current legislation.

Unlike the political fights earlier in the year over some of Mr. Trump's cabinet picks and his Supreme Court nomination of Neil Gorsuch, the current nominees at the head of the queue aren't high-profile, and some have bipartisan support.

Those awaiting Senate floor action include Makan Delrahim, in line to lead the Justice Department's antitrust division. Mr. Delrahim, a deputy White House counsel who served as a government antitrust lawyer in the George W. Bush administration, was approved by the Senate Judiciary Committee five weeks ago on a 19-1 vote.

Among its current pending matters, the antitrust division is deep into its review of AT&T Inc.'s proposed \$85 billion deal to acquire Time Warner Inc., a transaction announced in October.

Also pending are two picks for Republican seats on the Federal Energy Regulatory Commission, which usually has five members but currently has just one. Since February, the commission has lacked a quorum to conduct official business such as approving energy infrastructure projects. The nominees, Neil Chatterjee, a McConnell aide, and Robert Powelson, each were approved on a 20-3 vote by the Senate Energy and Natural Resources Committee last month.

Mr. Trump may have made a tactical misstep by not moving to fill an open Democratic FERC seat at the same time he announced the GOP nominees in May. For government commissions made up of members from both parties, presidents usually look to pair Democratic and Republican nominees, which gives both sides an incentive to move forward with the nominations. Mr. Trump in late June announced his intention to nominate Richard Glick, a Democratic Senate staffer, for an open FERC seat, but he hasn't done so yet.

Other pending nominees include Boeing executive Patrick Shanahan to be deputy secretary of defense, the No. 2 slot at the Pentagon, and Kevin Hassett to be the chairman of the Council of Economic Advisers.

Dozens of other nominees have been working their way through Senate committees and could be in line for full Senate consideration in the coming weeks. Those include Christopher Wray for FBI director as well as two nominees for the Nuclear Regulatory Commission.

[From Law360, New York, July 14, 2017]

WAIT TO CONFIRM TRUMP'S ANTITRUST CHIEF LONGEST IN 40 YEARS

(By Eric Kroh)

It has taken longer for the administration of President Donald Trump to get its top antitrust lawyer in place at the U.S. Department of Justice than any since President Jimmy Carter, leaving the division running at a limited clip some six months into Trump's tenure.

As of Friday, it has been 175 days since Trump's inauguration, and his nominee for assistant attorney general in charge of the DOJ's antitrust division, Makan Delrahim, has yet to be approved by the full Senate despite pressing matters such as the government's review of AT&T's proposed \$85 billion acquisition of Time Warner.

After taking office, Trump's five predecessors had their nominees to head the antitrust division confirmed by June at the latest. In the last 40 years, only Carter has taken longer to get his pick permanently installed after a change in administration. Carter nominated John H. Shenefield to be assistant attorney general on July 7, 1977, and he was confirmed on Sept. 15 of that year.

On the rung below, only two of five deputy assistant attorney general positions are currently filled at the antitrust division. Though the division is largely staffed by career employees and has been humming along under acting directors, the lack of a confirmed head and the vacancies at the deputy level could be a sign that the administration doesn't place a high priority on antitrust matters, according to Christopher L. Sagers of the Cleveland-Marshall College of Law at Cleveland State University.

"It doesn't seem like this particular White House has been as interested in the day-to-day administration of government as it has been in political issues," Sagers said. "I don't think that bodes particularly well for antitrust enforcement."

Trump did not take especially long to nominate Delrahim. It had been 66 days since his inauguration when Trump announced his choice on March 27. Former President Barack Obama was relatively speedy with his pick, naming Christine A. Varney to the position a mere two days after taking the oath of office. On average, though, the six presidents before Trump took about 72 days to announce their nominees.

However, it has taken an unusually long time for Delrahim to make it through the logjam of nominations in the Senate. As of Friday, it has been 109 days since Trump announced Delrahim as his pick to lead the antitrust division. Of the past six administrations, only President George W. Bush's nominee took longer to confirm when the Senate approved Charles A. James on June 15, 2001, 120 days after he was nominated.

Popular wisdom holds that the antitrust division is hesitant to launch any major merger challenges or cartel investigations when it is operating under an acting assistant attorney general, but that is largely a canard, Sagers said.

It's true that the division has been mainly focused on addressing litigation and deal reviews that were already ongoing when Trump took office and continuing probes begun under Obama. However, past acting assistant attorneys general have not been afraid to take aggressive enforcement actions, such as the DOJ's challenge to AT&T's acquisition of T-Mobile in 2011 under acting head Shari A. Pozen, Sagers said.

Nevertheless, the lack of permanent leadership is likely being felt at the division, Sagers said.

"At a minimum, it's a burden on the agency's ability to get all its work done," he said.

For example, the DOJ asked the Second Circuit on two occasions for more time to file its opening brief in a case involving the government's interpretation of a decades-old antitrust consent decree that applies to music performing rights organization Broadcast Music Inc. In its request, the DOJ said it needed to push back the filing deadline because of the turnover in leadership at the antitrust division.

"Given the context of decrees that govern much of the licensing for the public performance of musical works in the United States, this is an important issue," the DOJ said in an April court filing. "In the meantime, there is still an ongoing transition in the leadership in the Department of Justice, and this is a matter on which the newly appointed officials should have an opportunity to review any brief before it is filed."

The Second Circuit ultimately declined to grant the DOJ's second request for an extension.

The setting of big-picture policies at the antitrust division such as in the BMI case is exactly the kind of thing that can fall by the wayside under temporary leadership, Sagers said.

Depending on the industry, companies may also be waiting to see the direction the DOJ takes on merger reviews under the Trump administration before deciding to follow through with or pursue large deals, according to Andrea Murino, a partner with Goodwin Procter LLP.

"I do think it is something you have to factor in," Murino said.

Dealmakers may be watching to see how the DOJ acts on blockbuster transactions such as the AT&T-Time Warner merger. The antitrust division also has to decide whether to challenge German drug and chemicals maker Bayer AG's \$66 billion acquisition of U.S.-based Monsanto Co.

The antitrust division's tenor will in large part be set by who will serve under Delrahim in the deputy assistant attorney general positions. Following Delrahim's confirmation, current acting Assistant Attorney General Andrew Finch will serve as his principal deputy. Last month, the DOJ named Donald G. Kempf Jr. and Bryson Bachman to two of the deputy assistant attorney general openings, leaving three vacancies remaining.

While it's preferable to have a full slate of officials and enforcers in place, the antitrust division will continue to review deals, go to court and police cartels until those seats are filled, Murino said.

"They've gone through this before, maybe just not for this length of time," she said. "There is a slew of really talented career people that do not change with the political administration."

As long as those people are in place, they will keep the trains running on time."

Mr. HATCH. Mr. President, Mr. Delrahim's appointment is just one example among many. This particular example serves an important case in point. Democrats are deliberately slow walking dozens of confirmations in a cynical effort to stall the President's agenda and hurt the President, but they are hurting the country, and they are hurting the Senate. They are hurting both sides.

I don't want to see Republicans respond in kind when Democrats become the majority and when they have a President.

It won't surprise anyone to hear that they are not limiting their obstruction campaign to executive branch nominees. In fact, looking at the judicial branch shows that this is part of a long-term obstruction strategy. In February 2001, just days after the previous Republican President took office, the Senate Democratic leader said they would use "any means necessary" to obstruct the President's nominees. A few months later Democrats huddled in Florida to plot how, as the New York Times described it, to "change the ground rules" of the confirmation process. And change the ground rules is exactly what they did.

For two centuries, the confirmation ground rules called for reserving time-consuming rollcall votes for controversial nominees so that Senators could record their opposition. Nominations with little or no opposition were confirmed more efficiently by voice vote or unanimous consent.

Democrats have literally turned the confirmation process inside out. Before 2001, the Senate used a rollcall vote to confirm just 4 percent—4 percent—of

judicial nominees and only 20 percent of those rollcall votes were unopposed nominees.

During the Bush Administration, after Democrats changed the ground rules, the Senate confirmed more than 60 percent of judicial nominees by rollcall vote, and more than 85 percent of those rollcall votes were on unopposed nominees.

Today, with a Republican President again in office, Democrats are still trying to change the confirmation ground rules. The confirmation last week of David Nye to be a U.S. district judge was a prime example. The vote to end debate on the Nye nomination was 97 to 0. In other words, every Senator, including every Democrat, voted to end the debate. Most people with common sense would be asking why the cloture vote was held at all and why the delay.

But Democrats did not stop there. Even after a unanimous cloture vote, they insisted on the full 30 hours of postcloture debate time provided for under Senate rules. To top it off, the vote to confirm the nomination was 100 to 0.

I don't want anyone to miss this. Democrats demanded a vote on ending a debate none of them wanted, and then they refused to end the debate they had just voted to terminate—all of this on a nomination that every Democrat supported. That is changing the confirmation ground rules.

Only four of the previous 275 cloture votes on nominations had been unanimous. In every previous case, whatever the reason was for the cloture vote in the first place, the Senate proceeded promptly to a confirmation vote.

In 2010, for example, the Senate confirmed President Obama's nomination of Barbara Keenan to the Fourth Circuit 2 hours after unanimously voting to end debate.

In 2006 the Senate confirmed the nomination of Kent Jordan to the Third Circuit less than 3 hours after unanimously ending debate.

In 2002 the Senate confirmed by voice vote the nomination of Richard Carmona to be Surgeon General less than 1 hour after unanimously ending debate.

The Nye nomination was the first time the Senate unanimously invoked cloture on a U.S. district court nominee. This was the first time there was a unanimous vote to end debate on any nomination on which the minority refused to allow a prompt confirmation vote.

Here is another chart that shows the percent confirmed by rollcall vote during the Clinton administration, the George W. Bush administration, and the Obama administration. Here we have the Trump administration, and, as you can see, they are not confirming his nominees even if they are qualified and the Democrats admit it. No matter how my friends across the aisle try to change the subject, these facts are facts.

While the Senate used time-consuming rollcall votes to confirm less

than 10 percent of the previous three Presidents' executive branch nominees, under President Trump, it is nearly 90 percent.

I admit the Democrats are bitter about the Trump win. I understand that. Everybody on their side expected Hillary Clinton to win. Many on our side expected her to win as well. But she didn't. President Trump is now President, and he did win, and he is doing a good job of delivering people up here to the Senate for confirmation.

This is not how the confirmation process is supposed to work.

The Constitution makes Senate confirmation a condition for Presidential appointments. This campaign of obstruction is exactly what the Senate Democrats once condemned. Further poisoning and politicizing the confirmation process only damages the Senate, distorts the separation of powers, and undermines the ability of the President to do what he was elected to do.

I hope our colleagues on the other side will wise up and realize that what they are doing is destructive to the Senate, harmful to the Senate, and it is a prelude to what can happen when they get the Presidency. I don't want to see that happen on the Republican side.

TAX REFORM

Mr. President, to change the subject, I would like to speak about the effort to reform our Nation's Tax Code. Last week, I came to the floor to give what I promised would be the first in an ongoing series of statements about tax reform. Today, I would like to give the second speech on that subject in this series.

As I have said before, while there are tax reform discussions ongoing between congressional leaders and the administration, I expect there to be a robust and substantive tax reform process here in the Senate, one that will give interested Members—hopefully from both parties—an opportunity to contribute to the final product. I anticipate that, at the very least, the members of the Finance Committee will want to engage fully in this effort.

I have been working to make the case for tax reform for the last 6 years, ever since I became the lead Republican on the Senate Finance Committee. This current round of floor statements is a continuation of that effort.

Last week, I spoke on the need to reduce the U.S. corporate tax rate in order to grow our economy, create jobs, and make American businesses more competitive. Today's topic is closely related to that one. Today, I want to talk about the need to reform our international tax system.

Over the last couple of decades, we have enjoyed a rapid advancement in technology and communication, which has been a great benefit to everyone and has improved the quality of life for people all over the world. Unfortunately, our tax system has failed to evolve along with everything else.

For example, in the modern world, business assets have become increasingly more mobile. Assets like capital, intellectual property, and even labor can now be moved from one country to another with relative ease and simplicity. Assets that are relatively immobile—those that cannot be easily moved—are becoming increasingly rare. The Tax Code needs to change to reflect that fact.

Our current corporate tax system imposes a heavy burden on businesses' assets, which creates an overwhelming incentive for companies to move their more mobile assets offshore, where income derived from the use of the assets is taxed at lower rates.

As I noted last week, there is no shortage of lower tax alternatives in the world for companies incorporated in the United States. It does not take a rocket scientist to understand this concept. All other things being equal, if there are two countries that tax businesses at substantially different rates, companies in the country with higher tax rates will have a major incentive to move taxable assets to the country with lower rates. That dynamic only moves in one direction, as there are not many companies that are looking to move to higher tax countries, like the United States, from lower tax jurisdictions. This is not just a theory; this has been happening for years.

An inversion, if you will recall, is a transaction in which two companies merge, and the resulting combined entity is incorporated offshore. Let me repeat some numbers that I cited last week. In the 20 years between 1983 and 2003, there were just 29 corporate inversions out of the United States. In the 11 years between 2003 and 2014, there were 47 inversions—nearly double the number in half the amount of time. That number includes companies that are household names in the United States. This is happening in large part because of the perverse incentives embedded in our corporate tax system and the stupidity of us in the Congress to not solve this problem.

Keep in mind that I am only talking about inversions. There are also foreign takeovers of U.S. companies, not to mention arrangements that include earnings stripping and profit shifting. The collective result has been a massive erosion of the U.S. tax base and, perhaps more importantly, decreased economic activity here at home.

Make no mistake—our foreign competitors are fully aware of these incentives. They have recognized that lowering corporate tax rates can help them lure economic activity into their locations. Yet, in the face of this competition, the U.S. tax system has remained virtually frozen.

As I noted last week, reducing the corporate tax rate would help alleviate these problems, but more will be required, including reforms to our international tax system.

Currently, the United States uses what is generally referred to as a

worldwide tax system for international tax, which means that U.S. multinationals pay the U.S. corporate tax on domestic earnings as well as on earnings acquired abroad. Taxes on those offshore earnings are generally deferred so long as the earnings are kept offshore and are only taxed upon repatriation to the United States after accounting for foreign tax credits and the like.

Put simply, this type of system is antiquated. The vast majority of our foreign counterparts have already done away with worldwide taxation and have converted to a territorial system. Generally speaking, a territorial system is one in which multinational companies pay tax only on earnings derived from domestic sources.

By clinging to its worldwide tax system and a punitively high corporate tax rate, the United States has severely diminished the ability of its multinational companies to compete in the world marketplace. Because U.S.-based companies are subject to worldwide taxation while their global competitors are subject to territorial taxation systems, U.S. companies all too often end up having to pay more taxes than their foreign competitors, putting them at a distinct competitive disadvantage.

Generally speaking, foreign-based companies pay taxes only once at the tax rate of the country from which they have derived the specific income. A U.S. multinational, on the other hand, generally pays taxes on offshore income at the rate set by the source country but then gets hit again—and at a punitively high rate—when it repatriates its earnings back to America.

This is stupidity in its highest sense. This needs to change. It is not only Republicans who are saying that; many Democrats have recognized this issue as well. For example, I will cite the Finance Committee's bipartisan working group on international tax, which is cochaired by Senators PORTMAN and SCHUMER, our ranking minority leader, which examined these issues thoroughly and produced a report in 2015. In that report, after noting that most industrialized countries have lower corporate rates and territorial systems, this bipartisan group of Senators said: "This means that no matter what jurisdiction a U.S. multinational is competing in, it is at a competitive disadvantage."

The report by Senators PORTMAN and SCHUMER and the members of their working group also referred to something called the lock-out effect. Simply put, the lock-out effect refers to the incentives U.S. companies have to hold foreign earnings and make investments offshore in order to avoid the punitive U.S. corporate tax. This is not a dodge or a tax hustle on the part of these companies; they are simply doing what the Tax Code tells them to do. The Tax Code essentially tells U.S. companies: You can have \$100 in Ireland, say, or you can have \$65 in the United States.

Well, no surprise here—companies generally opt to have \$100 in Ireland.

Currently, a huge amount of capital—as much as \$2.5 trillion or maybe even more—that is held by U.S. multinational companies is effectively locked out of the United States and is unavailable for investment here at home. However, as Senators SCHUMER and PORTMAN and their colleagues on the international tax working group noted, those funds can easily be used to grow the economies of those foreign countries that have kept their tax codes up to date.

These are massive problems, and if we are going to put together an effective tax reform package and be competitive, we will have to find a way to tackle these issues. The most obvious way, of course, would be with a combination of reducing our corporate tax rates, transitioning to a territorial tax system, and ensuring protection of the U.S. tax base from things like earnings stripping and profit shifting. That approach, as it turns out, has bipartisan support.

These matters represent a significant portion of our tax reform efforts, and we already know it is one on which Republicans and Democrats can agree, at least in concept. In other words, there is ample reason for our Democratic colleagues to join Republicans and for Republicans to join Democrats in the tax reform discussions.

These issues are not just important for faceless corporations or tax planners; they are important for American workers who are up and down the income scale. Anyone who is hoping to have a job and opportunities here in the United States and not somewhere else has an interest in reforming our international tax system. If we pass up this current opportunity to address these issues, people should expect to see more and more economic activity and the headquarters and supporting staff of more household-name companies moved outside the United States.

With bipartisan recognition of the need for reform and agreement on international concepts already having been displayed, we owe it to the American people to work together and fix this problem.

As I have said multiple times, I hope my friends on the other side of the aisle will be willing to work with us on tax reform, but if they decline—and, sadly, we have seen some indication that they will—Republicans will need to be ready to take steps to fix these problems. I think we will be ready. Indeed, I think we are more than up to the challenge. I hope we do something about these important issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

HEALTHCARE

Mr. MURPHY. Mr. President, I thank the Senator from Georgia for the recognition.

Colleagues, the new CBO score is out on, I guess, version 4.5 or 5.5—it is hard

to keep track of the bill to repeal the Affordable Care Act—and nothing has changed. This proposal, which is a moral and intellectual dumpster fire, is still a disaster.

Here is what the CBO says about the bill that is currently being reworked behind closed doors by my Republican colleagues. The CBO says that, immediately, 15 million people would lose coverage by next year. That is a humanitarian catastrophe. It is something this country has never witnessed before—that number of people losing coverage in that short a period of time. Our emergency rooms would be overwhelmed as they would be unable to deal with the scope of that kind of humanitarian need. Ultimately, the number would rise to 22 million at the end of the 10-year window. We know it will be far bigger than that in the second 10 years because that is when the worst of the Medicaid cuts will happen, but 22 million is a lot of folks. It is no different than in the previous version, which was 23 million, or in the House's bill, which somehow got a majority vote in that place despite 24 million people losing health insurance, according to the CBO.

Today, 90 percent of Americans are covered by health insurance. The CBO says that number will go all the way down to 82 percent. I have heard my friend Senator CORNYN complain on this floor year after year that the ACA still leaves millions of Americans uncovered. This would make it even worse.

When you get down to look at what happens to individual Americans, it gets even more frightening. Let me give an example of how this bill would dramatically increase premiums on individuals who are currently insured through the private market.

A lot of the coverage losses happen because of this assault on Medicaid, but lots of folks who have private coverage would not be able to afford it any longer. If you are a 64-year-old who is making, let's say, \$55,000, that is over three times the Federal poverty level. In a lot of places, you can live on \$56,000. Today, that individual is paying about a \$6,700 premium. Under the Republican healthcare bill, that individual would be paying \$18,000 in premiums. That is an increase of 170 percent. That is just one individual.

The bottom line is that, if you are older and you are less wealthy, you are going to be paying a whole lot more under this proposal.

Despite all of the guarantees made by Republicans and this President that under their plan, costs would go down, that deductibles would go down and premiums would go down, the CBO says the exact opposite. It says that, especially if you are sort of middle-income and are 50 or older, your premiums will go up dramatically.

This is a terrible bill. It does not solve a single problem that the Republicans said they were trying to fix. More people lose insurance, costs go

up, and quality does not get better. This is a terrible piece of legislation.

We are at this very frightening time in the negotiations when changes are being made to this bill not to improve policy but to try to win individual votes. That is what is happening as we speak. Behind closed doors, small changes are being made to this bill to try to win the votes of individual Senators, giving them specific amounts of money for their State, and their State alone, in order to win their vote. That is shameful, and it is no way to reorder one-fifth of the American economy. We are talking about 20 percent of the U.S. economy. And changes are being made to this bill right now that have nothing to do with good healthcare, that have only to do with winning individual votes to try to get to 50, because Republicans refuse to work with Democrats—refuse to work with us. So instead of building a product that could get big bipartisan support, Republicans are now down to a handful of their Members and are trying to find ways to deliver amounts of money to those Members' States in order to win their vote.

There is a special fund in the latest version of the bill for insurance companies in Alaska that was not in the previous version of the bill. Now, all of these provisions get written in a way that if you are an average, ordinary American who decides to take a couple of hours of your time to read the bill, you would never know that it was a specific fund for Alaska because it doesn't say "Alaska." It sets up a whole bunch of requirements that a State has to meet to get this special fund for insurance companies, and only one State fits that description, and it is Alaska.

There is a change in this bill from previous law that addresses States that were late Medicaid expanders, States that expanded into the new Medicaid population allowed for under the Affordable Care Act but did it late in the process. The previous version didn't give those States credit when establishing the baseline for the new Medicaid reductions, but miraculously this new bill has a specific provision to allow for two States that were late Medicaid expanders to be able to get billions of additional dollars sent to their State. Those States are Alaska and Louisiana—two States.

There is a new provision in the latest version of the bill that makes a very curious change to the way in which DISH payments are sent to States—that is the Disproportionate Share Hospital Program that helps hospitals pay for the costs for people without insurance. Not coincidentally, it is a change that was advocated by one Senator from one State: Florida. The change will disproportionately benefit the State of Florida, and it is now in the new version.

These are not changes that help the American healthcare system. They are not changes that benefit my State or

the State of the majority of Members here. Some of these changes don't benefit 98 of us; they only benefit 2 of us. And they are in this version of the bill in order to win votes, not to make good policy.

We heard word this morning of a new fund that was invented in the middle of the night last evening that would supposedly help States that are Medicaid expansion States transition their citizens who are currently on Medicaid to the private market. Now there are reports that it is a \$200 billion fund, and that is a lot of money. It sounds like a lot of money, and it is a lot of money, but it would represent 17 percent of the funds that are being cut to States, and it would only be a temporary bandaid on a much bigger problem. Why? Because CBO says definitively that the subsidies in this bill for people who want to buy private insurance are so meager that virtually no one who is kicked off of Medicaid will be able to afford those new premiums. That is why the numbers are so sweeping in their scale—22 million people losing healthcare insurance.

So even if you get a little bit of money to help a group of individuals in a handful of States transition, when that money runs out—and it will—they are back in the same place. All they are doing is temporarily postponing the enormity of the pain that gets delivered. And once again, this provision being delivered to only States with Medicaid expansion populations is being targeted in order to win votes, not in order to improve the entirety of the healthcare system.

Senator CORKER called out his colleagues today. He said that he was willing to vote for the motion to proceed, but he was growing increasingly uncomfortable with a bill that was increasingly—I think his word was “incoherent.” That is what happens when you get to the point where you have a deeply unpopular bill that everybody in the country hates and you need to put amounts of money in it to get a handful of additional votes. It becomes incoherent. And this was an incoherent bill to begin with. It is hard to make this bill more incoherent, but that is what is happening when these individual funds are being set up for Alaska, Louisiana, and Florida.

We could solve all of this if Republicans decided to work with Democrats. If we set aside the big tax cuts for the wealthy and the pillorying of the Medicaid Program, if we try to fix the real problems Americans face today, we could do it on a bipartisan way. And wouldn't that be great.

I get it that there is enormous political advantage for Democrats to sit on the sidelines and watch Republicans vote for a bill that has a 15-percent approval rating, just like there was political advantage for Republicans to sit on the sidelines and not do anything to help Democrats provide insurance to 20 million more Americans. Healthcare is a very thorny political issue, but it

doesn't have to be that way. We could sit down together and own this problem and the solution together, and we could end healthcare being a permanent political cudgel that just gets used every 5 to 10 years by one side to beat the other side over the head.

We are Senators too. We got elected just like our Republican friends did. Why won't Republicans let Democrats into the room, especially after this bill has failed over and over again to get 50 votes from Republicans? We don't have a communicable disease. We aren't going to physically hurt you if you let us into that room. We are not lying when we say we have a desire to compromise.

Democrats aren't going to walk into a negotiating room and demand a single-payer healthcare system. We understand that we are going to have to give Republicans some of what they want; maybe that is flexibility in the benefit design that is offered on these exchanges. But Republicans are going to have to give Democrats some of what we want, which is the end to this madness—an administration that is trying to sabotage our healthcare system and destroy the healthcare our citizens get. But that could be a compromise. It is not illegal to meet with us. There are 48 of us; there are not 12 of us. My constituents in Connecticut deserve to have a voice in how one-fifth of the American economy is going to be transformed.

I know a lot of my Republican friends want to do this. I have talked with Republican Senators who say: Well, when this process falls apart, we want to work with you. It is falling apart, because the only way Republicans are going to get the 50 votes is by making these shameful changes—specific funding streams for specific States in order to get a handful of votes—and that is not how this place should work. Maybe that is how things happened here 100 years ago, but it is not how things should happen today.

So once again I will beg my Republican colleagues to stop this partisan closed-door exercise and come and work with Democrats. We can do this together. We can own it together. We will have plenty of other stuff left to fight about if we find a way to agree on a path forward for America's healthcare system.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASSIDY). The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I want to commend my colleague from Connecticut for a very thoughtful speech. I think he has made the case that the challenge ahead is really a two-part drill—first, to stop something that is especially ill advised, and second, to then move to a better way that really focuses on sunlight and bipartisanship. So I thank my colleague for his very thoughtful comments.

THINKING ABOUT SENATOR MCCAIN

Mr. President, I am here to speak about healthcare, but before I turn to

that subject, I want to spend a few minutes talking about our wonderful colleague JOHN MCCAIN.

Some of the most satisfying moments I have had in public life have been serving with JOHN MCCAIN. When I came to the U.S. Senate—Oregon's first new U.S. Senator in almost 30 years—I had the honor of being chosen to serve on the Senate Commerce Committee, which was chaired by JOHN MCCAIN. And what an exhilarating way to begin serving in the Senate. We tackled big, meaty, important issues of the future—the question of multiple and discriminatory taxes on internet commerce. We focused, for example, on Enron and what went wrong there when so many consumers were ripped off. We dug into consumer rights. JOHN MCCAIN was an early advocate for saying that if you rode on an airplane, it didn't mean you ought to sacrifice basic consumer rights, and some of those same issues are getting more attention today.

Then, of course, we built on this floor the Y2K measure. When everybody was so concerned about what would happen at that time, Senator MCCAIN gave me the honor of being his Democratic partner in putting together a bill. We had the benefit of incredible work from the private sector and first responders and smarter Federal policies. We all know that some of the calamitous predictions about Y2K didn't come to pass.

JOHN MCCAIN did some extraordinary work at that time. As a young U.S. Senator, what a thrill it was to be able to be involved with a real American hero on some of those first experiences I had in the Senate.

As we begin to absorb the news of last night, what struck me is that now we are counting on JOHN MCCAIN's legendary strength to give cancer its toughest fight ever—toughest fight ever.

I just wanted to come to the floor today and say we are rooting for you, dear friend. We are rooting for you and Cindy and your wonderful family, and we are thinking about you this afternoon.

HEALTHCARE

Mr. President, it is my sense that if you thought the TrumpCare debate in the Senate had met its end on Tuesday, it is pretty obvious you ought to be thinking again. The zombie stirs once more.

The latest attempt by the majority to cobble together 50 votes, according to reports, comes down to waving a \$200 billion slush fund in front of Senators from States that expanded Medicaid under the Affordable Care Act.

As the ranking Democrat on the Senate Finance Committee, I am very pleased that the Presiding Officer joined the committee this year. We have studied this one-time slush fund, and the theory, of course, is that it is supposed to be enticing enough for a Senator to vote for a bill that still slashes Medicaid to the bone.

Let's be realistic about what the slush fund represents in the context of

the overall plan. Senate Republicans are steering tens of millions of Americans toward a cliff and are offering the world's smallest pillow to break the fall.

Before I go further on the specifics of what the majority has on offer, I want to step back and take a look at what the American people have been subjected to over the course of this debate. The reason I want to do this is that, even by Beltway standards here in Washington, this is the absolute worst of this city.

In the crusade to repeal the Affordable Care Act, the ACA, there has been the AHCA—the House TrumpCare bill. That is the one that earned the big victory ceremony with the President of the United States in the Rose Garden. Next, we had the BCRA—the Senate TrumpCare bill. Then, there was a second version of the BCRA. Then, along came something called the ORRA, the bill I have called “repeal and ruin,” which got its start back in 2015. Then, this morning, the public got a look at a third version of the BCRA. My sense is, if you are having coffee in Coos Bay, OR, or in Roseburg over lunch or something like that, your head is going to be spinning as you hear this news.

I also want to make sure folks know about the strategy that has come out of the White House over the last few days. The President first endorsed the Senate's TrumpCare bill, but then it was repeal only. Then, while the country watched the administration sabotage the Affordable Care Act, the President said that everybody ought to just sit back and watch what happens. Then it was back to calling for the Senate majority to pass TrumpCare.

Nobody in this Chamber, with the possible exception of Senate Majority Leader MITCH MCCONNELL, can claim to really know what is coming down the pike on American healthcare. So with the health and well-being of hundreds of millions of Americans at stake, this shadowy, garbled, and wretched process really just leaves your jaw on the floor.

Senate Republicans seem to be speeding toward a vote on something. As I mentioned, there is the prospect of this \$200 billion slush fund being dangled out there to help round up votes. My sense is that this slush fund is of zero consolation to the millions of Americans who live in States that didn't expand Medicaid. It is of zero consolation to the tens of millions of middle-class families who are going to have their tax cuts or healthcare ripped away and see their premiums skyrocket. It will be of zero consolation to middle-class families who are panicked over whether they are going to be able to take care of elderly parents and grandparents when long-term care through Medicaid is cut.

Make no mistake about what this slush fund really does; it just delays a little bit of the pain for a short time in States that expanded Medicaid. But the slush fund is going to run dry. That is a fact. State budgets are going to get

hit like a wrecking ball. That is the reason so many Governors are so unhappy with what is on offer.

There is no escaping the consequences of whatever the Senate passes. If you had objections to TrumpCare or a repeal-only bill yesterday, this doesn't change a thing.

A few hours ago, the nonpartisan Congressional Budget Office—for folks who don't follow the lingo and CBO, those are our nonpartisan umpires. They put out an analysis of the third version of the Senate Republican healthcare bill. If you were hoping that was the charm, the news doesn't exactly help your cause.

The CBO found that it is still going to send premiums through the roof. The new version is going to kick 22 million Americans off their healthcare. It is still going to make healthcare unaffordable for millions of Americans with preexisting conditions. That is especially troubling to me—and I know the Presiding Officer is very interested in the policy foundations of these big issues. Before the Presiding Officer came to this body, I worked with one of our former colleagues, and we put together what is still the only comprehensive bipartisan health reform—seven Democrats, seven Republicans—that has been introduced in this body. One of the priorities that those Senators—and some of those colleagues on the other side of the aisle are still here; they were cosponsors of this bill, and many of the Democratic sponsors are still here. There was bipartisan agreement that there should be an airtight, loophole-free commitment to protecting people with preexisting conditions. As I said, seven Democrats, seven Republicans signed off on that bill. A number of them from both sides still serve in the U.S. Senate today.

Now what is being discussed is an approach that would make healthcare unaffordable for millions of people with preexisting conditions, really taking a big step back—and I have heard my colleague speak about this, commenting on TV shows and the like—toward the days when healthcare in America was for the healthy and the wealthy. That is what you get if you don't have airtight protections for those with preexisting conditions, if you don't have what we had in our original bill by seven Democrats, seven Republicans—airtight protections, loophole-free protections for those with preexisting conditions. If you don't have it, you are marching back to the days when healthcare was for the healthy and wealthy, where you could not move to another job if you got a great opportunity because you had a preexisting condition. You were immobilized. That is where this is going with the proposal to make healthcare unaffordable for millions of people with preexisting conditions, turning back the clock, moving away from what has strong bipartisan support in this Chamber with Senators on both sides who are still here.

For those who care about the affordability of health coverage, there is a statistic that really leaves you without words. Under the Senate Republican bill, in 2026, a middle-aged American who brings home \$26,500 annually will face a deductible of \$13,000—\$13,000. If you are watching this, remember that figure the next time you hear that the Senate Republican bill lowers costs or puts the patient at the center of care. If this bill becomes law, that individual with a \$13,000 deductible is one bad injury or diagnosis away from personal bankruptcy. How does that figure compare to the system on the books today, you might ask? Under the Affordable Care Act, that same individual's deductible is \$800.

The other option being put forward by Senate Republican leaders is a repeal-only strategy, and they claim it would have a 2-year transition. But the numbers from the Congressional Budget Office make clear that the idea of a transition after a repeal bill passes is a fantasy.

“Repeal and run” means that 17 million Americans lose coverage in the first year; 32 million Americans lose coverage within a decade; premiums in private market plans double. It is easy to see why. My colleague in the Chair, the Presiding Officer, knows so well about the signals that are sent to the private marketplace; we are talking about the marketplace. If you are pouring gasoline on the fires of uncertainty in the private insurance sector and people can't plan and they can't calculate, what will happen during this 2-year transition? You are going to have bedlam in the marketplace. It is a prescription for trouble, and premiums and private market plans will double.

The numbers I am talking about are real lives. I was the director of the Gray Panthers senior citizens group for almost 7 years before I was elected to the Congress. This is my background. As I started to see government reports and the like, I came to realize that those reports—all those facts and figures on pieces of paper, long sheets of paper, figure after figure—are not really what this debate is all about. This is a debate about people, about their hopes and aspirations and what they want for the future. Families are worried, for example, about how they are going to pay for the care of an older parent. I think about those seniors I met as director of the Gray Panthers. They did nothing wrong. They scrimped and saved, and they didn't go on the special vacation. They didn't buy the boat. They did everything right. They educated their kids and tried to sock away a little money. What we know is, growing old in America is expensive. In spite of being careful about costs all their lives, when a spouse needed extra care or they had early onset of healthcare problems, they went through all the money they saved. Then they needed Medicaid.

Medicaid now picks up the costs of two out of three nursing home beds in

America. What is not known is very often seniors need not just that care, but they need home and community-based care. They need a continuum of services so they get the right kind of care at the right time.

They are looking at this bill. They are saying this is going to make my prospects for being able to afford care—whether it is nursing homes, home and community-based services—an awful lot harder to figure out in the days ahead.

We have young people who have been through cancer scares. We have single parents who work multiple jobs to put food on the table. This is what I am hearing about at home. When I had the good fortune of being chosen Oregon's first new Senator in almost 30 years, I made a pledge that I would have an open meeting, open to everybody in every one of my State's counties. We have 36 counties in Oregon.

This year, so far, I have had 54 open-to-all town meetings. Each one of them lasts 90 minutes. There are no speeches. People say what they want. They ask a question. It is the way the Founding Fathers wanted it to be. They are educating me, and I am trying to respond. I am trying to take back to Washington, DC, which often strikes them as a logic-free zone—I am trying to take their thoughts back to Washington, DC. Frankly, my highest priority has been to find common ground with people of common sense on the Finance Committee, especially in the healthcare area, because long ago I decided if you and your loved ones don't have your health, nothing else really matters.

At those 54 town meetings—they have been in counties where Donald Trump won by large numbers or Hillary Clinton won by large numbers—each one of those meetings has been dominated by the fears of Americans of all walks of life, of all political philosophies worried about what is going to happen to their healthcare.

Frankly, their worry seems to be just as great in rural communities that President Trump won by large majorities because Medicaid expansion in my State has been enormously helpful. So many Oregon communities, under 10,000 in population, have been able to use Medicaid expansion at a hospital to maybe hire another person. It has really been a lifeline. They have an awful lot of people between 55 and 64. They are going to be charged five times as much as young people here, and they are going to get fewer tax credits to deal with it.

In all of these counties—counties won by Donald Trump, counties won by Hillary Clinton—fear about healthcare has been front and center. People are fearful and obviously would like some clarity, some sense of what is coming next.

One of our colleagues whom I do a lot of work with, Senator THUNE—a member of the Finance Committee and his party's leadership—spoke to a reporter

a little bit ago. He couldn't say what the Senate would take up, if the first procedural vote passes next week, whether it would be TrumpCare or a straight repeal bill.

My sense is, everybody is being asked to walk into this abyss on healthcare but particularly colleagues on the other side of the aisle. To be in the dark about what is on offer a few days before a vote that affects hundreds of millions of Americans, one-sixth of the American economy—for them to be in the dark, someone like myself, the ranking Democrat on the Senate Finance Committee that has jurisdiction over Medicare and Medicaid and tax credits, strikes me as very odd, even by the standards of the beltway.

The American people are now left guessing about what comes next. The only guarantee, should the first procedural vote succeed, is that both options Senate Republican leaders put on the table are going to raise premiums, make care unaffordable for those with preexisting conditions, and leave tens of millions of Americans without health coverage.

I want to repeat a message that I and other Democratic Senators have been delivering for days. The choice between TrumpCare and straight repeal of the Affordable Care Act is false. Nobody is being forced to choose between calamity and disaster.

Democrats and Republicans absolutely can work together on the healthcare challenges facing the country. As soon as there is a willingness to drop this our-way-or-the-highway approach—this partisan approach known as reconciliation—there will be a good-faith effort on our side to find common ground.

I heard enough of the back-and-forth in this debate to know there is a bipartisan interest; for example, in flexibility for States. I know the President of the Senate is especially interested in this issue—flexibility for the States. He has given it a lot of thought. I want him to know I am always open to talking to him about this issue.

In the bill I described earlier—seven Democrats, seven Republicans—we had a special section which became law in the Affordable Care Act that in effect provided for what are called innovation waivers. The theory—and I am sure my colleague in the Chair has been thinking about these issues as well—is based on the idea we both have heard for years, conservatives have said, if those folks in Washington will just give us the freedom, we can find better ways to cover people, hold down the costs, and make what works in Louisiana work for us, and folks in Oregon can pursue what works for folks in Oregon.

I said, at the time, that every single bill that I would be part of in this debate about fixing American healthcare would have a provision that would respond to this argument that the States are the laboratories of democracy. We would have a provision that would allow considerable flexibility for States to take their own approaches.

I continue to feel very strongly about it. I wrote an entire section of my comprehensive bill to give States flexibility, and fortunately it was included in the Affordable Care Act. There ought to be room to work on these kinds of issues, State flexibility. There ought to be room to work on a bipartisan basis with respect to bringing down prescription drug costs.

I have indicated to the President of the Senate, I think the lack of transparency in the pharmaceutical market has really been a major factor in the reason that our people get hammered by escalating drug prices.

We have heard for so long that some of the middlemen—they are called pharmaceutical benefit managers. They came into being a few years ago. They said: We will negotiate for businesses or States or labor unions. We will negotiate a better deal for the consumer.

Consumers said: Hey, we will see that in our pocketbook. At home we would see that at a pharmacy, at Fred Meyer or Rite Aid or Walgreens or any of our pharmacies. These are all big pharmacies around the country. Right now, as of this afternoon, we don't know what these middlemen put in their pocket and what they put in our pocket.

There ought to be an opportunity to find common ground. I think there ought to be a chance for Democrats and Republicans to work together on approaches like my SPIKE bill, which says that when a big pharmaceutical company wants to drive up the prices, they should have to publicly justify why they are doing so.

There ought to be ways for Democrats and Republicans to work together and bring down prescription drug costs. There certainly is bipartisan interest in getting more competition and more consumers into the insurance markets. That means more predictability and certainty.

My view is, if you are serious about really helping to make the private insurance market robust, you have to stop this crusade to repeal the ACA. Insurers are making decisions right now. All eyes are on this body to bring certainty back to the marketplace.

The reality is, there is only a very short time with respect to 2018 premiums. I know there are Republican Senators who would like to tackle challenges on a bipartisan basis. The message my colleagues and I are sending on this side of the aisle is, there are a lot of open arms here. Instead of taking the partisan route and causing devastation in our healthcare system, let's work together to make healthcare better and more affordable for all Americans.

I consider that kind of bipartisan cooperation to be the premier challenge of my time in public service, to work with colleagues, common sense, looking for common ground. I have heard one after another of my colleagues on this side of the aisle state that in just the last few days.

Let us set aside this partisan our-way-or-the-highway approach, opt for the alternative, which is more sunshine and more bipartisanship. I will pledge to you everything in my power on the Senate Finance Committee to bring that about.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BLUNT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANUFACTURING

Mr. BLUNT. Mr. President, the White House started out this week with all kinds of activities on the White House grounds pertaining to things that we make here in America and the importance of manufacturing and, frankly, the kinds of good jobs that have traditionally come with manufacturing.

When we have an economy that focuses on making things and growing things, that has always been the strongest economy for working American families—an economy that competes, an economy that produces. Where the Presiding Officer and I live in Louisiana and in Missouri, in the middle of the country and close to that great transportation corridor and close to the resources of the country, we always particularly thrive when we are in an economy that is focused on making things.

With all of the other discussions this week, it would be a shame to not think about those products from every State that the President talked about this week, that were on the Capitol grounds, and that are reflective of companies that are almost brandnew and companies that are a century old, where people had figured out how to be competitive enough in what they were doing that they could make a living for themselves and lots of other people, doing just that. In fact, manufacturing employs 12.3 million people in the country today, including more than 260,000 people in my State of Missouri. There is no doubt that we benefit from those kinds of jobs.

I was glad that in 2014 we were able to get the Revitalize American Manufacturing and Innovation Act signed into law. This was a new way, a new opportunity for businesses to link with each other and to link with training facilities, maybe research universities. You have to have that kind of public partner, as well, to see what we could be to be even more competitive than we are. When we looked at Germany and other countries, they were not only doing this sort of thing, but they were doing it in a way that made it really hard for us sometimes to keep up with that level of interaction between innovation and manufacturing, innovation and labor.

Businesses are really very much impacted, jobs are very much impacted by

the decisions that government ultimately sets the stage for. If you are going to make something in America today, the first two boxes I think you would have to check would be can you pay the utility bill and does the transportation system work with what you are trying to do. If you can't check those two boxes, no matter how great that workforce and that location might be, you are not going to take those jobs there. So government, either as a regulator or as a provider, is going to be very involved in whether you can pay the utility bill.

That is why I was really glad to see the new director at the Environmental Protection Agency look at the power rule. The courts fortunately had already said you don't have the authority to do that—only Congress can do what you want to do here—which is look at the power rule and look at States like many of our States in the middle of the country where, in my State, the so-called clean power rule would have doubled the utility bill for families and the places they work in about 10 or 12 years. By the way, nobody pays the utility bill for you. The utility bill is paid based on how many utilities you use. There is no mythical big government to come in and pay the utility bill unless we are going to have a totally different system than we have now. The utility bill would have doubled.

I have often said that in the last three years in this fight to see that this didn't happen to Missouri families—and I said it again on the radio this morning in an interview, thinking that this fortunately had not happened—I said: If you want to test what happens if the utility bill is allowed to double because of some needless government action—and double before it has to because you are doing things before they have to be done—the next time you pay your utility bill, just as you are writing your checks out of your checkbook, pay it one more time and see what you are going to do with the rest of your family's money that month, which suddenly you can't do because you are paying the utility bill twice.

There are ways—when we need to transition to some other kind of utility provider if we want to transition in fuels or sources or whatever—there are ways to do that. The way to do that is to say that the next time you have to build something, the next time you have to borrow money that the utility users are going to pay back over 20 or 30 years, once you have paid for what you are doing now that has met all the requirements, you have to do it differently than what that silly rule would have said, because it would have said you have to pay for what you already have, but you have to also be paying for what you immediately had to replace it with.

This would have been like if you had the CAFE standards, the miles-per-gallon standards, if that same agency

would have said: OK, we are going to have new miles-per-gallon standards and they are effective immediately, and if you have a car that doesn't meet those standards, you of course have to keep paying for your car, but you also have to have a new car. That is what we were about to tell utility users and families. And if you don't think that would have had an impact on jobs, you are just not thinking about jobs.

There was a water rule, the waters of the United States, that would have done about the same thing. Both of those have been pushed back by the courts, and hopefully we are walking toward a more reasonable situation where we are thinking about how to accomplish the same goals in a way that lets families accomplish their dreams.

Then the second thing, the transportation issue: Does the transportation system work for what you want to make? Can you get the material where you need to get it? Can you get a product in a way that continues to make you competitive? And the State and Federal Government and local governments are very, very much in charge of the decisions that make that environment whatever it is.

So when we are thinking about "Made in America," we have to think about those things. Then we have to think, with that infrastructure in place, what is the third and crucial piece of that puzzle coming together? It is a workforce that is competitive and prepared and an education system that is prepared to help with whatever comes next.

If we think we know what the average person, or any person, is going to be doing and how they are going to be doing it 20 years from now, I suspect none of us are quite that able to predict what 20 years from now is going to look like. In fact, if we had thought about the way we do most of the work we do now 20 years ago, it would be amazing: Oh, it is just 20 years later, but we didn't have the cell phone, we didn't have an iPad, we didn't have a computer. There was nothing at the factory that did what that machine does right now. We have to have a workforce that is ready, and we have to do all we can to make that workforce ready.

On the infrastructure front, we need to look not only at the infrastructure bill that is coming up, but also how many more tools can we put in the tool box. Senator WARNER and I reintroduced the BRIDGE Act to provide one more tool to create more incentive for private sector partnerships, to do things differently than we have done them before. If we are going to get different results, we have to do different things. If we do just exactly what we have been doing, we are going to get just exactly what we have been getting.

So as the President focuses, I think properly, on the kinds of American jobs that create stronger families and more opportunities, we don't want to lose

this week without also thinking about those jobs, thinking about the 12.3 million Americans who work at making things, thinking about the more than a quarter of a million Missourians who do that. Think about the others who work at growing things and how an economy that makes things and grows things is a stronger economy than an economy where people just trade services with each other. There is nothing wrong with trading services, but if you do that on top of a productive economy, it has a much better likelihood for everyone involved to serve the people who provide the services, as well as the people who are out there making things that are competitive in the world to have better opportunities.

I appreciate the President and Vice President this week calling attention to that important part of what we do as we move toward transportation and infrastructure and other things.

THOUGHTS AND PRAYERS FOR SENATOR MCCAIN

Mr. President, while I am on the floor, I want to mention for just a minute our friend, JOHN MCCAIN. I know lots of prayers have been said for Senator MCCAIN and his family. Lots of stories today have been told and traded, and there are lots of stories to tell.

When I was in the House for 14 years, I was often in brief meetings with Senator MCCAIN. Frankly, I never grew to appreciate him anywhere near like I did when I had a chance to begin to work with him every day. For me, at least, he was an acquired taste. It took time to really see his strength, his tenacity, and to understand that irascibility was just part of who he is and part of his determination to make the country and the Congress and the Senate better.

It would be hard to find anyone more determined or less fearful. In fact, someone in a recent debate in the last year or so said that Senator MCCAIN had—I think a reporter said that Senator MCCAIN had done something because he was afraid to do the other thing. When asked about it, Senator MCCAIN said: Well, it has been a long time since I was afraid.

He is a man who served his country day after day after day, and still does; a believer in what we stand for; someone who has traveled all over the world, as I have had a chance to travel to dangerous spots and other places. Over and over again, as I would get there, people would say: Here is what Senator MCCAIN had to say when he was here. Here is what Senator MCCAIN did when he was here. Senator MCCAIN was here last week. He was there, always proud of the independence and determination and democracy and freedom that he stands for.

We all know he is in a fight right now, but we all also know he is a fighter. He is not a man who surrenders. I know the prayers of not only the Senate but so many people all over the country and, frankly, all over the world go out to help JOHN MCCAIN as he faces this fight.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. WARREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. WARREN. Mr. President, I rise today to oppose the nomination of David Bernhardt as the next Deputy Secretary of the Interior.

Mr. Bernhardt has shown that he is unwilling to fight for the long-term conservation of our public lands and the responsible use of our public resources. By his own admission, he intends to be a big business yes-man for the Trump administration's extreme disregard for our environment and the human lives that are affected.

President Trump promised to drain the swamp of DC, but with each day of this administration, this Republican-controlled Senate approves yet another corporate insider to help out big business. The decision to nominate Mr. Bernhardt is no exception. He is another conflict-ridden, climate-dismissing Trump appointee who favors profits over people.

Let's look at his record. Mr. Bernhardt has extensive political experience in the Department of the Interior under the Bush administration, but in his tenure at the Department, including the 2 years he oversaw the ethics division, the Department was awash in ethical scandals and scientific misconduct.

And what did he do after he left government service? He scooted off to a lucrative lobbying firm to help Big Oil and other extraction companies maximize their profits by expanding offshore drilling and delaying air pollution limits on coal plants, regardless of the impact that would have on our children's future.

Even Mr. Bernhardt isn't proud of his own record. Prior to his nomination, his lobbying firm bio bragged about recently helping corporations fight against the Endangered Species Act, supporting corporate interests in offshore drilling and exploration for fossil fuels, and helping mining companies pursue public lands for development. He openly bragged about recently representing "an entity under investigation by a Federal Agency" and "entities accused of violating the Department of the Interior's regulations." He swaggered through Washington. That is, he swaggered right up until he was under consideration for the No. 2 spot at Interior. Now that he is in the public spotlight, he has scrubbed all those pro-industry, pro-pollution references from his bio. Now that the public is paying attention, he is putting out a clean image of a public servant who just happens to advise big corporations from time to time.

Beyond the ties Mr. Bernhardt still has to industry, I am alarmed by his

willingness to serve as the corporate rubberstamp that President Trump wants. Mr. Bernhardt is a walking conflict of interest who has taken one spin through the revolving door, and now he is coming back around again for a second pass.

The Deputy Secretary serves at the pleasure of the President. But a Deputy Secretary—the No. 2 at the Department—is, first and foremost, bound to serve the American people and the mission of the Department. No President is properly served by a corporate yes-man, and Mr. Bernhardt's yes-man mentality was on full display during his confirmation hearing.

When my colleague from Minnesota, Senator AL FRANKEN, questioned Mr. Bernhardt about climate change at his nomination hearing, he was all too willing to dismiss the urgency of climate change, and he pushed aside the responsibility of the Department of the Interior to act. In defiance of accepted climate science, he stated:

This President ran, he won on a particular policy perspective. That perspective's not going to change to the extent we have the discretion under the law to follow it.

In other words, don't bother me with the facts; we will just stick to whatever President Trump tells us to do.

But the rest of us can't ignore the facts. Our planet is getting hotter. The last 16 years were all among the hottest 17 years on record, and our seas are rising at an alarming rate. Our coasts are threatened by furious storm surges that can sweep away homes and devastate even our largest cities. Our economically disadvantaged communities, too often situated in low-lying floodplains, are one bad storm away from destruction. Our naval bases are under attack—not by enemy ships but by rising seas. Our food supplies and forests are threatened by droughts and wildfires that are becoming so common across the country that they barely even make the evening news.

The effects of manmade climate change are all around us, and things will only continue to get worse at an accelerating pace if we don't do something about it. We can act, and one important step is saying no to corporate raiders who are seeking to exploit public lands and gamble with our children's future.

President Trump thinks leadership is handing over management of our public lands to Big Oil and Big Coal executives who are looking to stuff their pockets while the getting is good. Mr. Bernhardt, a seasoned advocate for corporate interests, seems all too eager to please this President and corporate interests, no matter the cost to the American people. If President Trump's highest ranking agency officials are not brave enough to speak even a little truth to power about this President's climate delusions, then, who will?

The American people deserve leadership at the Department of the Interior—leadership that is committed to ensuring that our public resources and

our public lands are preserved for future generations of Americans. The American people deserve leadership that fights back when the President seeks to cut thousands of jobs at the Department of the Interior or offers a budget that critically undermines the Department's mission and threatens our public lands.

The American people deserve leadership at the Department of the Interior—leadership that works for the people—and that is not David Bernhardt.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BLUNT). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. SCHUMER the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Ms. STABENOW. Mr. President, due to a family related matter in Michigan, I was unable to attend today's rollcall vote on the nomination of John K. Bush to be a United States circuit judge for the Sixth Circuit. Had I been able to attend, I would have opposed his nomination.

I also was unable to attend today's rollcall vote on the motion to invoke cloture on the nomination of David Bernhardt to be Deputy Secretary of the Interior. Had I been able to attend, I would have voted no on the cloture motion.●

MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

Mrs. MURRAY. Mr. President, July 22, 2017, marks the 30th anniversary of the enactment of the McKinney-Vento Homeless Assistance Act, our Nation's landmark law designed to prevent and address homelessness. Many communities in my home State of Washington and across the country are confronting a surge in homeless and housing-insecure individuals, and the resources brought to bear by McKinney-Vento are essential to continued progress. The McKinney-Vento Act also marked the first time that Congress provided dedicated funding to ensure equal edu-

cational opportunities for children and youth who are experiencing homelessness. The law requires States and school districts to remove barriers that homeless children and youth face in receiving a high-quality education. In the years since the McKinney-Vento Act was passed, hundreds of thousands of young people experiencing homelessness have received the supports they need in order to attend school, graduate, and secure a well-paying job that can provide for their families.

I am proud to have introduced and seen enacted legislation to remove barriers and provide support to homeless children and youth, from early childhood through postsecondary education. Many of these laws have codified best practices pioneered by dedicated Washington State educators determined to make a difference for homeless children and youth.

I have fought and continue to fight for funding that makes a difference for homeless children and youth, veterans and other adults, and families experiencing homelessness. I ask my colleagues to join me in celebrating the success of the McKinney-Vento Act and recognizing how far we still have to go in order to solve our homelessness crisis and make sure that every child in our country has access to a quality education no matter where they live, how they learn, or how much money their parents make.

RECOGNIZING THOSE WHO SERVED ON WAKE ISLAND

Mr. CRAPO. Mr. President, today I wish to honor the servicemembers and civilians who served on Wake Island in World War II, as the last gathering of the Survivors of Wake-Guam-Cavite, Inc., is scheduled to be held in Boise in September.

Survivors of the defense of Wake Island and their families have held annual reunions and other get-togethers for the last nearly 71 years. Idaho became home to annual reunions of Wake Island survivors and their families. Many of these gatherings have been organized by Alice Ingham, whose husband was on Wake Island, but since many Wake Island survivors have now, unfortunately, passed away, the organization has decided to wind down their reunions, noting, "We would like to honor all of our Wake men—the living, the deceased, and those who never made it home from the war—with this final reunion." The last worker from Idaho, Joe Goicoechea of Boise, passed away this past year.

The astounding Americans who served on Wake Island and their families are lasting examples of courage and resolve. The history of World War II and the bravery of the American servicemembers who fought for our Nation and its allies are familiar parts of our collective national history, but an often overlooked part of this legacy is the service of the civilian workers on Wake Island who were swept into the

war. The civilian workers, including many Idahoans, working for Morrison Knudsen Company, building infrastructure on the island, when it was attacked the same day as the attack on Pearl Harbor, immediately became soldiers. Their service cannot be forgotten. I thank all those who have helped keep the memories of those who served on Wake Island alive.

In Veterans Memorial Park in Boise, a memorial honoring Americans who served on Wake Island gives the following account: "Five hours after bombing Pearl Harbor on December 7th, 1941, Japanese forces attacked Wake Island, a tiny island midway between Hawaii and Japan. The United States was constructing a runway essential for planes to refuel on their way through the area. There were 449 Marines, 68 Sailors, 6 Army Air Corps, and 1146 civilians employed by the Boise-based Morrison Knudsen Company on the island. Approximately 250 of the MK workers were from Idaho. For 15 days the military and civilians bravely defended the island from the Japanese forces. Wake Island fell to the Japanese on December 23, 1941.

"Following the battle, 98 civilian construction workers were kept on Wake Island to labor for the Japanese. When their work was complete, they were forced to dig their own graves before being executed. The remaining defenders of the island, both military and civilian, were taken as prisoners of war by the Japanese and held for 44 months. These brave heroes endured exceedingly harsh conditions, serving as slave labor for the Japanese government in Japan and China. Many died in captivity. In 1981 the civilian MK employees were granted Veteran status in recognition of their service in the War of the Pacific . . ."

Those who survived and returned home have enriched our communities. Thank you to those who served on Wake Island and their families for the immeasurable service you have given to our country and for your enduring examples of devotion and strength.

ADDITIONAL STATEMENTS

TRIBUTE TO MAJOR RICHARD E. HAGNER

• Mr. COCHRAN. Mr. President, I am pleased to commend MAJ Richard E. Hagner for his dedication to duty and service to the Nation as an Army congressional fellow and congressional budget liaison for the Assistant Secretary of the Army. Major Hagner was recently selected for the Army's prestigious Advanced Strategic Planning and Policy Program and will be transitioning from his present assignment to begin doctoral studies at Vanderbilt University.

A native of Milwaukee, WI, Major Hagner was commissioned as an infantry officer after his graduation from